

Appl. No. 10/810,520
Amdt. dated August 30, 2006
Reply to Office Action of May 31, 2006

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REMARKS/ARGUMENTS

Claims 1 - 23 are presented for Examiner Waggoner's consideration.

Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

Applicants have amended their independent claims 1, 10 and 16, as well as dependent claims 4, 5, 7 and 18. Claim 1 has been amended to recite that the dispenser has a first longitudinal edge and an oppositely aligned second longitudinal edge. Basis for this language is found in the specification at page 10, lines 6 – 8, and is also shown in the drawings at Figs. 1, 5 and 8 - 11. Claim 1, paragraph b), has been amended to recite that "the first hinge is located along the first longitudinal edge." Basis for this language is found in the specification at page 10, lines 9 - 10. Claim 1, paragraph c), has been amended to recite that "the second hinge is located along the second longitudinal edge." Basis for this language is found in the specification at page 10, lines 24 - 25. Recitation of the third member being secured to the second member "at a first location and having a hinge spaced apart from the first location" has been deleted.

Dependent claim 4 has been amended to delete language referring to the location of the first and second hinges.

Dependent claim 5 has been amended to be dependent upon claim 1 instead of claim 4.

Dependent claim 7 has been amended to correct for the misspelling of the word "covering".

Independent claim 10 has been amended in a similar fashion as claim 1. In addition, claim 10 has been amended to recite that the third member is capable of pivoting on the second hinge "at least about 225 degrees." Basis for this language is found in the specification at page 12, lines 14 – 15.

Independent claim 16 has been amended in a similar fashion as claim 1. In addition, paragraph b) now recites that the second entrance is an aperture having an elliptical configuration. Basis for this language appears in original claim 5.

Lastly, dependent claim 18 has been amended to delete reference to the fact that the second entrance has "an elliptical configuration." No new matter has been introduced by way of the above amendments and therefore they should be entered at this time.

By way of the Office Action mailed May 31, 2006, Examiner Waggoner objected to claim 7 because the word "covering" was misspelled. Claim 7 has been amended to correct this typographical error. Applicants thank Examiner Waggoner for pointing out this error.

By way of the Office Action mailed May 31, 2006, Examiner Waggoner rejected claims 1, 4, 7, and 8 under 35 U.S.C. § 102(b) as allegedly being anticipated and thus unpatentable over U.S. Patent

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Number 5,542,567 to Julius. This rejection is respectfully traversed in view of the amendments made to claims 1, 4 and 7.

Independent claim 1 now recites that the first hinge is located along the first longitudinal edge of the dispenser and the second hinge is located along the oppositely aligned second longitudinal edge of the dispenser. Julius does not teach or disclose this feature. In fact, Julius teaches away from Applicants' presently claimed invention in that the second hinge in Julius is formed in the top wall of the container. It is not formed along the oppositely aligned second longitudinal edge. In view of this, Applicants' claimed invention is structurally different over Julius. Accordingly, Applicants believe that their claims 1, 4, 7 and 8 are patentably distinct over Julius and should be allowed at this time.

By way of the Office Action mailed May 31, 2006, Examiner Waggoner rejected claims 2, 3, 9 – 11 and 21 - 23 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 5,542,567 to Julius in view of U.S. Patent Number 4,526,291 to Margulies. This rejection is respectfully traversed to the extent that it may apply to the presently presented claims.

Examiner Waggoner has cited Margulies as teaching the possibility of forming three members integrally, such as by injection molding, and that the third member can rotate 180 degrees or more. However, the combination of Julius and Margulies does not teach or disclose Applicants' presently claimed invention. As mentioned above, Julius does not teach or disclose a first hinge being located along a first longitudinal edge of the dispenser and a second hinge being located along the oppositely aligned second longitudinal edge of the dispenser. Margulies teaches a collar 8, a top 10 and a lid 12 designed to be fixed to a bag 6 by adhesive or by heat sealing, see Column 3, lines 46 - 48. The bag 6 of Margulies is adapted to contain a web of towels 50, see Column 4, lines 51 – 53 and also Fig. 1. The bag 6 could be envisioned to be equivalent to Applicants' first member 22. However, the collar 8 of Margulies is not equivalent to Applicants' second member 24. The collar 8 is permanently fixed to the collar 8 and is not pivotally connected to the bag 6. In claim 1, Applicants' specifically recite that their second member 24 is pivotally connected to their first member 22. Furthermore, the top 10 and the lid 12 of Margulies are not equivalent to Applicants' second member 24 since they are not capable of housing a plurality of articles as claimed by Applicants. Another patentably distinct feature of Applicants' presently claimed invention over the combination of Julius and Margulies is that in independent claim 16, Applicants recite that the second entrance has an elliptical configuration. Neither Julius nor Margulies teach or disclose such a configuration. Because of the above-identified structural differences, one skilled in the art could not arrive at Applicants' presently claimed invention by combining the teaching of Julius and

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Margulies. Accordingly, Applicants verily believe that their claims 2, 3, 9 – 11 and 21 - 23 are patentably distinct over the combination of Julius and Margulies and should be allowed at this time.

By way of the Office Action mailed May 31, 2006, Examiner Waggoner rejected claims 5 and 15 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 5,542,567 to Julius in view of U.S. Patent Number 4,526,291 to Margulies and further in view of EP 0968934 B1 of Bando. This rejection is respectfully traversed to the extent that it may apply to the presently presented claims.

Examiner Waggoner has cited Bando as teaching an elliptical entrance. However, the combination of Julius, Margulies and Bando still fail to teach or disclose Applicants' presently claimed invention because neither Julius nor Margulies teach pivotally connecting a first, a second and a third member together by first and second hinges to form a first entrance and a second entrance into the dispenser wherein the first and second hinges are located on opposite longitudinal edges of the dispenser. As stated above, Julius does not form his second hinge along the second longitudinal edge. Margulies does not pivotally connect his first and second members. The top 10 and the lid 12 of Margulies are not equivalent to Applicants' second member because they can not contain a plurality of articles. In view of these structural and functional differences, the combination of Julius, Margulies and Bando does not render Applicants' claims 5 and 15 obvious. Accordingly, Applicants believe that their claims 5 and 15 are patentably distinct over the cited combination and should be allowed at this time.

By way of the Office Action mailed May 31, 2006, Examiner Waggoner rejected claim 6 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 5,542,567 to Julius in view of U.S. Patent Number 4,526,291 as modified by Margulies and further modified by Bando. Examiner Waggoner states that the combination does not disclose specific height values but considers such dimensions to be obvious to one of ordinary skill in the art based upon routine experimentation. This rejection is respectfully traversed to the extent that it may apply to the presently presented claims.

The combination of Julius, Margulies and Bando still differ structurally and functionally from Applicants' presently claimed invention. Applicants' claim 6 is dependent upon independent claim 1 and incorporates all of the elements currently recited therein. As stated above, the combination of Julius, Margulies and Bando does not teach pivotally connecting a first, a second and a third member together by first and second hinges to form a first entrance and a second entrance into the dispenser wherein the first and second hinges are located on opposite longitudinal edges of the

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dispenser. Julius does not form his second hinge along the second longitudinal edge. Margulies does not pivotally connect his collar 8 to the bag 6. The top 10 and the lid 12 of Margulies are not equivalent to Applicants' second member because they can not contain a plurality of articles. In view of these structural and functional differences, the combination of Julius, Margulies and Bando does not render Applicants' claim 6 obvious. Accordingly, Applicants believe that their claim 6 is patentably distinct over the cited combination and should be allowed at this time.

By way of the Office Action mailed May 31, 2006, Examiner Waggoner rejected claim 12 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 5,542,567 to Julius in view of U.S. Patent Number 4,526,291 as modified by Margulies. Examiner Waggoner states that the combination does not disclose specific height values but considers such dimensions to be obvious to one of ordinary skill in the art based upon routine experimentation. This rejection is respectfully traversed to the extent that it may apply to the presently presented claims.

Applicants' claim 12 depends from independent claim 10 and incorporates all of the elements currently recited therein. As stated above, Applicants' claim 10 is structurally and functionally different from the combination of Julius and Margulies. Accordingly, Applicants believe that their claim 12 is patentably distinct over the combination of Julius and Margulies and should be allowed at this time.

By way of the Office Action mailed May 31, 2006, Examiner Waggoner rejected claims 18 and 19 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 5,542,567 to Julius as modified by Margulies and further modified by Bando. This rejection is respectfully traversed to the extent that it may apply to the presently presented claims.

Applicants' claims 18 and 19 depend from independent claim 16 and incorporate all of the elements currently recited therein. As stated above, Applicants' claim 16 is structurally and functionally different from the combination of Julius and Margulies. Accordingly, Applicants believe that their claims 18 and 19 are patentably distinct over the combination of Julius and Margulies and should be allowed at this time.

By way of the Office Action mailed May 31, 2006, Examiner Waggoner rejected claim 14 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 5,542,567 to Julius as modified by U.S. Patent Number 4,526,291 to Margulies and further in view of U.S. Patent Number 4,096,986 to Florian. Examiner Waggoner has cited Florian as teaching the use of finger

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tabs. This rejection is respectfully traversed to the extent that it may apply to the presently presented claims.

Applicants' claim 14 depends from independent claim 10 and incorporates all of the elements currently recited therein. As stated above, Applicants' claim 10 is structurally and functionally different from the combination of Julius and Margulies. Adding finger tabs to the dispensers taught in Julius and Margulies still does not allow one skilled in the art to arrive at Applicants' presently claimed invention. Accordingly, Applicants believe that their claim 14 is patentably distinct over the combination of Julius, Margulies and Florian and should be allowed at this time.

For the reasons stated above, it is respectfully submitted that amended claims 1, 4, 5, 7, 10, 16 and 18, as well as original claims 2 - 3, 6, 8 - 9, 11 - 15, 17 and 19 - 23, are in form for allowance.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: (920) 721-2455.

Respectfully submitted,

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CERTIFICATE OF TRANSMISSION

I, Lanette Burton, hereby certify that on August 30, 2006, this document is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300.

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